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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,253	09/13/2000	Francis Anthony Darmann	BSW.007	3080
7590	07/31/2002			
EXAMINER				
PATEL, ISHWARBHAI B				
ART UNIT	PAPER NUMBER			
	2827			

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

	Application No.	Applicant(s)
	09/661,253	DARMANN ET AL.
Examiner	Art Unit	
Ishwar (I. B.) Patel	2827	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on April 29, 2002, paper No. 9.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-5,7-9 and 11-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5,7-9 and 11-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 13 September 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of group I, claims 1-5,7-9, and 11-18 in Paper No. 9 is acknowledged.

### ***Drawings***

2. The drawings are objected to because figures are improperly cross hatched. All of the parts shown in section, and only those parts, must be cross hatched. The cross hatching patterns should be selected from those shown on page 600-81 of the MPEP based on the material of the part. See also 37 CFR 1.84(h)(3) and MPEP 608.02.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 7 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what is meant by the "unequal strength" of both the metal tape.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

*JKL* 6. Claims 1~~xx~~<sup>4-5,7-8,14-17</sup> are rejected under 35 U.S.C. 102(e) as being anticipated by Kaneko, US Patent No. 6,381,832.

Regarding claims 1 and 11 Kaneko discloses a composite superconducting tape comprising a multiplicity of constituent superconducting tape stacked parallel to one another with major faces in contact, wherein at least some of the constituent tapes have widths not greater than half the width of the composite tape including at least one tape bridging the stacks (tape like shaped superconducting wire with conductive plate 2 and 3, see figure 3D, column 10, line 45 to column 11, line 40).

Regarding claim 4 and 14, Kaneko further discloses at least one full width bridging tape produced from silver (Ag film 3' or 3, see figure 3C and 3D, column 10, line 45 to column 11, line 40.

Regarding claim 5 and 15, Kaneko further discloses two full-width metal tape, metal plate 2 and 3, see figure 3C and 3D, column 10, line 45 to column 11, line 40.

Regarding claim 7 and 16, as understood by the examiner, Kaneko further discloses the tapes with different melting temperatures.

Regarding claim 8 and 17, Kaneko further discloses the tape is diffusion bonded and all its elongate components extends longitudinally (column 8, line 25-35).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2,3, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko, US Patent No. 6,381,832 as applied to claim 1 above.

Regarding claims 2,3,12 and 13, Kaneko further discloses sub stacks without superconducting material between the zones, except does not explicitly disclose the

width of the constituting superconducting tape to be a simple fraction of the width of the composite tape as claimed in claims 2 and 12 or the simple fraction is half as claimed in claims 3 and 13. However, the constituting tapes of any width smaller than that of the total width of the composite tape can be used as long as the total width is maintained. Further, the applicant is not claiming any specific advantage of simple fraction of the total width of tape. Therefore, it would have been obvious to provide the composite tape of Kaneko with the constituent tape width as claims in claims 2,3,12 or 13 in order to get the desired width of the composite tape.

9. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko, US Patent No. 6,381,832 as applied to claim 1 and 11 above, and further in view of Sato et al., US Patent No. 5,2888,699, hereafter Sato.

Regarding claims 9 and 18, though Kaneko does not disclose powder in tube superconducting tapes, the powder in tube superconducting tape is known in the art and any type of conducting tapes can be used for composite tape to get the desired width and length of the superconducting tapes / wires. Further, the applicant is not disclosing any specific advantage of using a powder in tube superconductor tape. Sato discloses one such powder in tube super conducting tape. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the composite tape of Kaneko with constituent tape of powder in tube super conductive tape as taught by Sato in order to get the composite tape with suitable width and length.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gherardi et al., Gamble et al., Riley, Jr. et al., Takaaki Sasaoka, disclose superconducting tape similar to applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ishwar (I. B.) Patel whose telephone number is (703) 305 2617. The examiner can normally be reached on M-F (6:30 - 4) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L Talbott can be reached on (703) 305 9883. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305 3431 for regular communications and (703) 305 7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

ibp  
July 25, 2002



KAMAND CUNEO  
PRIMARY EXAMINER